

**In the
Supreme Court of Indiana**



IN THE MATTER OF

THE HONORABLE

WALTER P. CHAPALA

SENIOR JUDGE

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Cause No. 46S00-0810-JD-580

NOTICE OF THE INSTITUTION OF FORMAL PROCEEDINGS

AND

STATEMENT OF CHARGES

The Indiana Commission on Judicial Qualifications, having found sufficient cause for formal disciplinary proceedings, now notifies the Honorable Walter P. Chapala of the filing of these Charges. These Charges are brought under Admission and Discipline Rule 25 and before the Indiana Supreme Court, which, pursuant to Article 7, Section 4, of the Constitution of Indiana, has original jurisdiction over the discipline, suspension, and removal of all judges and lawyers of this State. At all times pertinent to these Charges, Senior Judge Chapala was a duly elected Judge of the LaPorte Superior Court 1 and is now a Senior Judge and a member in good standing of the Indiana bar. Senior Judge Chapala may file an Answer within twenty days after service of these Charges.

BACKGROUND

1. On December 18, 2001, in *State v. Whelan*, Cause No. 46D01-0106-CF-065, Judge Chapala, as the elected judge of the LaPorte Superior Court 1, accepted Whelan's guilty pleas to Dealing Cocaine, a Class A Felony, to Possession of Cocaine with Intent to Deliver, a Class A Felony, and to Dealing in a Controlled Substance, a Class B Felony. Judge Chapala sentenced Whelan to a twenty-year prison term in the Department of Corrections. Judge Chapala then announced that he would consider how to "craft" the prison term and whether or not he would suspend any portion of it.
2. Subsequently, Judge Chapala initiated and entered into an agreement with Whelan's father, without affording the State an opportunity to be heard, to suspend 18 years of Mr. Whelan's sentence to the Indiana Department of Corrections in exchange for a \$100,000.00 donation into two court programs.
3. On February 28, 2002, Judge Chapala held a hearing in continuation of the December 2001 sentencing hearing, with all parties present, and confirmed through his probation officer the receipt of the \$100,000.00 and the agreement that \$25,000.00 would go to the LaPorte County Jail Substance Abuse Program and \$75,000.00 to the Kankakee, Michigan Probation Enhancement Substance Abuse Program. Judge Chapala then suspended 18 years of Whelan's sentence and accommodated Whelan's request to spend the 8-month remaining term of incarceration in the LaPorte County Jail instead of the Department of Corrections.
4. In 2004, in *State v. Mizer*, Cause No. 46D01-0404-FB-00064, Judge Chapala, as the elected judge of the LaPorte Superior Court 1, presided over the criminal case of his daughter-in-law's nephew, Mizer. Prior to the disposition of that case, the judge ordered Mizer's "predispositional release." Meanwhile, Mizer was facing felony charges in Michigan; Michigan had a valid "hold" on his person, and Mizer had waived extradition from Indiana. In placing Mizer on predispositional probation, Judge Chapala ordered that he was released from the Michigan "hold."
5. Nonetheless, the Sheriff of LaPorte County lawfully returned Mizer to the Michigan authorities. In response, Judge Chapala instituted contempt proceedings against the Sheriff; he dismissed the contempt in the midst of a September 2004 hearing only after the Sheriff apologized to Judge Chapala for his lawful actions.
6. Despite the fact that it was brought to Judge Chapala's attention during the contempt proceeding that his daughter-in-law's name was referenced four times on Mizer's commissary account at the jail and that Mizer had stated in taped phone calls from the jail that he anticipated some preferential treatment because of his relationship to the judge, Judge Chapala continued to preside over Mizer's case.

COMMISSION CHARGES

COUNT I

By exchanging a prison term in the Department of Corrections for a significant financial donation into court programs, Judge Chapala violated Canons 1A and 2A of the Code of Judicial Conduct, which require judges to uphold the honor, integrity, and impartiality of the judicial office and to promote the public's confidence in the judiciary, Canon 2B, which prohibits judges from lending the prestige of the judicial office to advance their own private interests or the private interests of others, Canon 3B(9) of the Code of Judicial Conduct, which requires judges to dispose of all judicial matters fairly, and he committed conduct prejudicial to the administration of justice and willful misconduct in office.

COUNT II

By arranging the financial donation in exchange for Whelan's suspended sentence without involving the office of the Prosecuting Attorney, Senior Judge Chapala violated Canons 1A and 2A of the Code of Judicial Conduct, which require judges to uphold the honor, integrity, and impartiality of the judicial office and to promote the public's confidence in the judiciary, Canon 3B(8) of the Code of Judicial Conduct, which prohibits *ex parte* contacts, Canon 3B(9) of the Code of Judicial Conduct, which requires judges to dispose of all judicial matters fairly, and he committed conduct prejudicial to the administration of justice and willful misconduct in office.

COUNT III

By ordering Mizer's release from the Michigan "hold," Judge Chapala violated Canons 1A and 2A of the Code of Judicial Conduct, which require judges to uphold the honor, integrity, and impartiality of the judicial office and to promote the public's confidence in the judiciary, he violated Canon 2B, which prohibits judges from allowing family and other relationships to influence the judge's judicial conduct or judgment and prohibits judges from lending the prestige of the judicial office to advance the judge's private interests or the private interests of others, he violated Canon 3B(2) of the Code of Judicial Conduct, which requires judges to be faithful to the law and to not be swayed by partisan interests, he violated Canon 3B(2) of the Code of Judicial Conduct, he violated Canon 3B(9) of the Code of Judicial Conduct, which requires judges to dispose of all judicial matters

fairly, and he committed conduct prejudicial to the administration of justice and willful misconduct in office.

COUNT IV

By initiating contempt proceedings against the Sheriff for lawfully returning Mizer to the Michigan authorities, Senior Judge Chapala violated Canons 1A and 2A of the Code of Judicial Conduct, which require judges to uphold the honor, integrity, and impartiality of the judicial office and to promote the public's confidence in the judiciary, he violated Canon 2B, which prohibits judges from allowing family and other relationships to influence the judge's judicial conduct or judgment and prohibits judges from lending the prestige of the judicial office to advance the judge's private interests or the private interests of others, he violated Canon 3B(2) of the Code of Judicial Conduct, which requires judges to be faithful to the law and to not be swayed by partisan interests, he violated Canon 3B(9) of the Code of Judicial Conduct, which requires judges to dispose of all judicial matters fairly, and he committed conduct prejudicial to the administration of justice and willful misconduct in office.

COUNT V

By presiding over his relative's criminal case and by continuing to do so after the contempt proceedings against the Sheriff, Senior Judge Chapala violated Canons 1A and 2A of the Code of Judicial Conduct, which require judges to uphold the honor, integrity, and impartiality of the judicial office and to promote the public's confidence in the judiciary, he violated Canon 2B, which prohibits judges from allowing family and other relationships to influence the judge's judicial conduct or judgment and prohibits judges from lending the prestige of the judicial office to advance the judge's private interests or the private interests of others, he violated Canon 3B(2) of the Code of Judicial Conduct, which requires judges to be faithful to the law and to not be swayed by partisan interests, he violated Canon 3E(1), which requires judges to disqualify from proceedings when their impartiality reasonably may be questioned, he violated Canon 3B(9) of the Code of Judicial Conduct, which requires judges to dispose of all judicial matters fairly, and he committed conduct prejudicial to the administration of justice and willful misconduct in office.

WHEREFORE, the Commission respectfully requests that, upon the filing of Senior Judge Chapala's Answer, the Indiana Supreme Court appoint three Masters to

conduct a public hearing on the charge that Senior Judge Chapala committed judicial misconduct as alleged, and further prays that the Supreme Court find that he committed misconduct and that it impose upon him the appropriate sanction.

Respectfully submitted,

October 29, 2008
DATE

Meg W. Babcock
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Counsel to the Commission
Atty. No. 4107-49

October 29, 2008
DATE


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CERTIFICATE OF SERVICE

I certify that a copy of this "Notice of the Institution of Formal Proceedings and Statement of Charges" was sent by facsimile and certified mail to Kevin P. McGoff, Counsel for Senior Judge Chapala, on this 29th day of October, 2008.

10/29/08
DATE



Meg Babcock
Counsel
Atty. No. 4107-49